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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,589	01/13/2004	Stephan Olivier Van Banning	47161-00043USPT	1772
30223	7590	08/17/2006	EXAMINER	
JENKENS & GILCHRIST, P.C. 225 WEST WASHINGTON SUITE 2600 CHICAGO, IL 60606			ENSEY, BRIAN	
			ART UNIT	PAPER NUMBER
			2615	

DATE MAILED: 08/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/756,589

Applicant(s)

VAN BANNING ET AL.

Examiner

Brian Ensey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-13, 17 and 19-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-16, 18, 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

The applicant requests examination of claim 26 which was newly added in the response to the restriction election filed 12/05/05. However, the claim was not elected during the discussion of the requirement of a species election with Daniel Nguyen on 12/23/05. Since the claim is covered by the scope of the previous elected claim 14 and reads on the elected species, the examiner will consider claim 14 but will treat the claim as newly submitted and as such reserves the right to make the current office action final.

Claim Objections

Claims 15, 16 and 18 are objected to because of the following informalities: Claims 15, 16 and 18 depend from claim 13. The examiner believes this is merely a typographical error and that these claims actually depend from claim 14 and will be examined as such. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 16, 18 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Urushibata et al. U.S. Patent No. 6,757,403.

Regarding claim 14, Urushibata discloses a receiver for a listening device, comprising: a magnet assembly (31); an armature (11) having a moveable portion (14) and a fixed portion (13); and a coil assembly including a bobbin (21) and a conductive wire (33) wound around said bobbin, said coil assembly being adjacent to said magnet assembly and, together with said magnet assembly, defining a passage through which said moveable portion passes (passage through coil (33) and between magnet assembly (31) and magnet positioning bars (24)), said bobbin including an armature-mounting structure (28), said moveable portion of said armature being substantially centered within said passage in response to said fixed portion being engaged to said armature-mounting structure (See Fig. 10 and col. 6, lines 29-40, and col. 8, lines 13-16).

Regarding claim 16, Urushibata further teaches said armature-mounting structure (28) has a shape that substantially matches a shape of said fixed portion of said armature (See Fig. 10 and col. 8, lines 13-16).

Regarding claim 18, Urushibata further teaches said armature (11) is an E-shaped armature (See Fig. 10 and col. 6, lines 28-30).

Regarding claim 26, Urushibata discloses a receiver for a listening device, comprising: a magnet assembly (31); an armature (11) having a moveable portion (14) and a fixed portion (13); and a coil assembly including a bobbin (21) and a conductive wire (33) wound around said bobbin, said coil assembly being adjacent to said magnet assembly and, together with said magnet assembly, defining a passage through which said moveable portion passes (passage through coil (33) and between magnet assembly (31) and magnet positioning bars (24)), said

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bobbin including an armature-centering structure (28), said moveable portion of said armature being substantially centered within said passage in response to said fixed portion being engaged to said armature-centering structure (See Fig. 10 and col. 6, lines 29-40, and col. 8, lines 13-16).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Urushibata et al. in view of Carlson U.S. Patent No. 3,247,991.

Regarding claim 15, Urushibata teaches a receiver as claimed. Urushibata further teaches a first flange (26) forming a first end of an armature-mounting structure and a magnet retainer (28) forming an opposing second end of an armature mounting structure to fixedly stabilize the fixed portion of the E-shaped armature (See Fig. 10 and col. 6, lines 29-40, and col. 8, lines 13-

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16). Urushibata does not expressly disclose two opposing flanges wherein each opposing edge lying in a plane that is substantially perpendicular to a plane of said armature. However, Carlson teaches a planar E-shaped armature wherein the fixed portions (28,30) are retained between the magnet structure (26) at a first end and an anchor (44) at an opposite end that lies in a plane (formed by the case (22) which holds anchor (44)) that is substantially perpendicular to a plane of said armature (See Figs 1 and 2 and col. 3, lines 5-11 and lines 58-70). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide perpendicular support for a planar armature for improved shock prevention (See col. 1, lines 23-29).

Response to Arguments

Applicant's arguments filed 6/8/06 have been fully considered but they are not persuasive.

With respect to the applicant's argument that *Urushibata clearly identifies element is a 'magnet retainer,' not an armature-mounting structure*, the examiner agrees. However, the "magnet retainer" as taught by Urushibata also provides the function of an armature mounting structure. As pointed out by the applicant, Urushibata teaches mounting the armature to the "magnet retainer" hence forming an armature mounting structure. The method in which the armature is mounted is irrelevant since the applicant is trying to read limitations from the specification into the claims. Additionally, Urushibata teaches "The magnet retainer 28 is integrally molded with the magnet positioning bars 24 (bobbin unit 21)." (See col. 7, lines 54 and 55 and FIG. 13). Therefore, it is the opinion of the examiner that Urushibata clearly teaches that

the “magnet retainer” is included in the bobbin and provided for mounting the armature, hence forming an equivalent armature-mounting structure.

With respect to the applicant’s argument that *Nowhere does Urushibata disclose or suggest that the magnet retainer 28 is capable of performing an armature centering function*, the examiner respectfully disagrees. The examiner asserts that mounting of the armature to the magnet retainer provides an inherent centering function (See col. 3, lines 1-10 and FIGS. 6-9).

With respect to the applicant’s argument that *Nowhere does Urushibata disclose or suggest that an armature-mounting structure having a shape that substantially matches a shape of the fixed portion of the armature*, the examiner respectfully disagrees. Urushitbata clearly illustrates that the fixed portion of armature 13 matches the shape of the magnet retainer 28 to which it is mounted allowing a secure fit by laser welding (see col.7, lines 41-64 and FIGS. 5 and 10) and thereby provide a compact uniform shape to be enclosed in housing .

The examiner asserts that Urushibata clearly teaches all the limitations as claimed by the applicant.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Ensey whose telephone number is 571-272-7496. The examiner can normally be reached on Monday - Friday 6:30 AM - 3:00 PM.

The Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group **Art Unit 2615**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, Va. 22313-1450

Or faxed to:

(571) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "PROPOSED" or "DRAFT".

Hand-delivered responses should be brought to:

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Randolph Building
401 Dulany Street
Arlington, VA 22314

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


SINH TRAN
SUPERVISORY PATENT EXAMINER

BKE
August 10, 2006